

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-111

October 29, 1999

MAINE PUBLIC UTILITIES COMMISSION
Offer Bidding Procedure

ORDER ON REQUEST
TO RESCIND

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we decline Energy Atlantic's (EA) request to rescind or alter our October 25, 1999 Order Provisionally Designating Standard Offer Providers and Rejecting Certain Bids.

II. BACKGROUND

On October 25, 1999, we issued an Order provisionally designating WPS Energy Service, Inc. (WPS-ESI) and Energy Atlantic (EA) as standard offer providers for customers in Maine Public Service Company's (MPS) service territory. We designated WPS-ESI as the standard offer provider for 100% of the residential/small non-residential and large non-residential classes and for 80% of the medium non-residential class. EA was designated the provider for 20% of the medium non-residential class. The designations are subject to our review of MPS's Chapter 307 auction results.

The October 25th Order also rejected the standard offer bids received for the Central Maine Power Company (CMP) and Bangor Hydro-Electric Company (BHE) service territories, and initiated a new selection process whereby bidders could submit standard offer bids up to the provisionally-accepted MPS prices or standard offer bids in combination with a Chapter 307 bid for the output of non-divested generation assets.

On October 26th, 1999, EA filed a request that the Commission rescind or alter the October 25th Order so as to void the award of standard offer service in the MPS territory and allow new bids combined with bids for MPS's Chapter 307 entitlement auction as was done for the CMP and BHE territories. As grounds for its request, EA states that the awards of standard offer service in the MPS territory could result in the total withdrawal of EA from the market leaving WPS-ESI with a monopoly over retail supply in the region. Additionally, reopening the bidding process in the manner requested will broaden options available to existing bidders, increasing competitive choice. Finally, EA argues that reopening the process to allow linked bids may result in lower standard offer rates for consumers.

The Public Advocate filed a letter in support of EA's position. WPS-ESI filed comments in opposition, stating that the outcome of the bid process was the result of a fair and competitive solicitation.

III. DECISION

We deny the EA request for the following reasons. The decision to initiate a second bid process for the CMP and BHE territories was the result of inadequate bids, not an attempt to improve on what would otherwise be acceptable bids. Our preference would be to allow the retail market for standard offer service and the wholesale market for the Chapter 307 output to independently determine the appropriate prices. This is the best means to promote a competitive electricity market in Maine. However, as stated in our October 25th Order, the results of the CMP and BHE processes indicate that the market for standard offer service in these service territories did not operate effectively. For this reason, we were forced to consider alternative approaches to assure that standard offer service would be available in the CMP and BHE service territory at reasonable prices beginning March, 2000.

In contrast, the MPS process did produce reasonable results and there is, thus, no justification to reject the bids. To do so would compromise the integrity of the process and be unfair to the winning bidders who followed the rules of the solicitation. In addition, if a new solicitation was initiated in the MPS territory, we would risk losing the reasonable bids that we accepted in our October 25th Order. This is because, in our view, we could not hold the winning bidders to their original bid prices once a new process is initiated.

Finally, we disagree with EA that the results of the standard offer solicitations in northern Maine have left WPS-ESI with a retail monopoly. The standard offer is for customers that do not otherwise choose a competitive provider. Competitive providers in northern Maine are free to compete against the standard offer if it could offer a lower cost or otherwise superior product. Moreover, the standard offer awarded to WPS-ESI is for a one-year term. There will be a new competitive solicitation next year to choose providers of standard offer service beginning March, 2001. For these reasons, there is no basis to conclude that a monopoly has been created as a result of the standard offer bid process.

Dated at Augusta, Maine, this 29th day of October, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.